

U.S. TRUSTEE GUIDELINE
REGARDING
THE ADJUSTMENT OF HOURLY RATES
DURING PENDENCY OF A CASE FOR
THE DISTRICT OF NEVADA, LAS VEGAS FILINGS^{1/}

Generally, there is no justification acceptable to the Office of the United States Trustee for the adjustment of hourly rates of court appointed professionals during the pendency of a bankruptcy case. Therefore, in almost all cases, the Las Vegas Office will object to the change of any hourly rates during the pendency of a case.^{2/}

Based on the foregoing, the Las Vegas Office will oppose any professional application for employment that provides for an automatic increase in hourly fees. This includes any general statements like:

“the firm may periodically adjust its rates from time to time”

“the current rates of....”^{3/}

“the range of rates for partners are....”^{4/}

^{1/}Effective for all applications for employment of professionals filed after March 31, 2004.

^{2/}Except on the limited basis provided below.

^{3/}The word “current” implies that the rate will fluctuate.

^{4/}An application may contain a range of rates by category as long as the specific rates for attorneys most likely to work on the matter are clearly delineated and this is not an attempt to circumvent this Guideline.

As the Las Vegas Office recognizes that economic pressures change over time, the Las Vegas Office will make an exception to this Guideline for Chapter 11 cases that exceed 6 months in duration, if and only if, all of the following occurs:

1. All required monthly operating reports have been previously filed and all 28 U.S.C. § 1930(a)(6) are paid current.^{5/}
2. A statement of the case, detailing the status of the case and an expected time-frame to confirmation.^{6/}
3. The original application for employment of the professional (“Application”) does not contain the prohibited language detailed above.
4. The Application contains the following statement:

“The applicant will not seek to raise the rates of the applicant (or any member of applicant’s firm)^{7/} for a minimum of 6 months after the date of the entry of the order approving applicants employment. Applicant reserves the right to seek an increase in hourly rates in accord with the U.S. Trustees Guideline on this matter.”

^{5/}This condition does not apply to professionals of any Official Committee of Unsecured Creditors.

^{6/}Committee professionals are not required to provide an estimated time-frame to confirmation.

^{7/}If the applicant is a member of a firm.

5. The applicant files an amendment to the Application^{8/} to increase rates not earlier than 6 months after the entry of the order approving employment of the applicant that contains each of the following:
 - (a) The justification for the hourly rate increase;
 - (b) A chart that specifies the old and new rate for each affected person, showing the percentage increase;
 - (c) A statement that the rate adjustment will only take effect for work performed after the date of entry of an order approving the amendment to the Application; **and**,
 - (d) A signed acknowledgment by the applicant's employer that the employer has reviewed the amendment and agrees to the increase as reasonable and appropriate.
6. The court enters an order approving the rate increase.

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^{8/}The same *ex parte* process may be used for the amendment. On a case by case basis, the U.S. Trustee reserves the right to decline to sign off on an *ex parte* order approving such an amendment, which will require a hearing.